

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.129 of 1994

Date of Decision. 05.10.2010

Ram Kishan son of Matu Ram Dhanak and another.....Appellants

Versus

Hawa Singh son of Munish Ram and othersRespondents

Present: Mr. Tajinder Pal Singh, Advocate
for Mr. Virender Singh, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate.

Mr. R.M. Suri, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.(ORAL)

1. The appeal is for enhancement of claim of compensation for death of a deceased person aged 18 years, who had completed 10th class. Against a claim of Rs.5 lacs, the Tribunal awarded Rs.40,000/- as compensation.
2. There had been an attempt during the trial that the deceased also used to do some work in the house and assist his mother. I would apply the compensation as provided under Schedule II, having regard to the low income and social status of the party and take the notional income to be Rs.15,000/- per annum, deduct 1/3rd for his personal expenses and take the extent of dependence at Rs.10,000/-. For a person aged between 15 to 20 years, the

appropriate multiplier shall be 16 and the compensation due to loss of dependence shall be Rs.1,60,000/-. I would provide Rs.2,500/- for loss to estate and Rs.2000/- for funeral expenses. In all, the amount that will become payable would be Rs.1,64,500/-. The amount in excess of what the Tribunal has awarded already, shall be paid with interest @6% from the date of the petition till the date of payment.

3. Before the Tribunal, the insurance company has proved that the original issue of licence at Delhi was fake although it contained renewals subsequently. The owner did not examine himself to explain his own belief about the nature of licence and its invalidity. There has been a breach of condition of policy and consequently, the insurer's liability shall be only to satisfy the claimants and recover the amount from the insured.

4. The driver has been served and the insured has not been served through notice in spite of an attempt by the claimants. The owner and the driver have engaged the same counsel at the trial and in appeal, the driver alone has been served and he has caused the return of summons by stating that he was not residing there. The matter was already put through Lok Adalat and it has failed. A case of the year 1994 cannot still await the service of notice to the 2nd respondent. The insurance company shall have a right of recovery of the amount against its own insured in execution proceedings.

5. The appeal is allowed to the above extent subject to the insurer's right as mentioned above.

(K. KANNAN)
JUDGE

October 05, 2010
Pankaj*